

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

District of

Delaware

MP VISTA, INC., HABIB PETROLEUM,  
WATZEN'S SHELL, INC., INDIVIDUALLY  
AND ON BEHALF OF THOSE SIMILARLY SITUATED

V.

SUMMONS IN A CIVIL CASE

MOTIVA ENTERPRISES, LLC AND  
SHELL OIL COMPANY

CASE NUMBER:

07-99

TO: (Name and address of Defendant)

SHELL OIL COMPANY

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

MORTON RICHARD KIMMEL  
KIMMEL, CARTER, ROMAN & PELTZ, P.A.  
P.O. Box 1070  
BEAR, DE 19702

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

PETER T. DALLEO

CLERK

*Clu Ce*

(By) DEPUTY CLERK

DATE

2/21/07

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## RETURN OF SERVICE

Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE March 15, 2007
NAME OF SERVER (PRINT) Allen L. Bertman	TITLE

Check one box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served: \_\_\_\_\_

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.  
Name of person with whom the summons and complaint were left: \_\_\_\_\_

☐ Returned unexecuted: \_\_\_\_\_

☒ Other (specify): Served Registered Agent Corporate Service Company, 2711 Centerville Road, Wilmington, Delaware 19808. Papers were left with Mary T. Drummond at approximately 1:00 pm.

## STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
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## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on March 15, 2007  
Date

Allen L. Bertman  
Signature of Server

3323 Silverside Road Wilmington, DE 19810  
Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

**UNITED STATES DISTRICT COURT  
FOR THE STATE OF DELAWARE**

MP VISTA, INC., HABIB PETROLEUM :  
WARREN'S SHELL, INC., INDIVIDUALLY : No. \_\_\_\_\_  
AND ON BEHALF OF THOSE :  
SIMILARLY SITUATED :  
:  
:  
VERSUS :  
:  
:  
MOTIVA ENTERPRISES, LLC AND SHELL :  
OIL COMPANY :

07 - 99 -

2007 FEB 21 AM 11:23

U.S. DISTRICT COURT  
DISTRICT OF DELAWARE

**COMPLAINT- CLASS ACTION**

NOW INTO COURT, through undersigned counsel and pursuant to Federal Rule of Civil Procedure 23 come MP Vista, Inc., Habib Petroleum, Warren's Shell, Inc., Individually And On Behalf Of Those Similarly Situated, all of which ARE Florida corporations who individually and on behalf of those similarly situated represent as follows:

**I.--INTRODUCTION**

THE plaintiffs are retail channel partners of the defendants who were directed to close their fuel pumps on May 26, 2004 after Motiva discovered the gasoline it refined at its Norco Refinery in Louisiana and distributed in Florida, Mississippi, and Louisiana was contaminated with trace amounts of elemental sulfur.

**II.--DEFENDANTS**

Defendants here, Motiva Enterprises, LLC and Shell Oil Company, are a limited liability company and a business corporation, respectively, both of which are domiciled at 1209 Orange Street, Wilmington, Delaware 19801.

**III.--JURISDICTION**

This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act (CAFA) 28 USC 1332(d)(2) because this is a class action in which there is at least minimal diversity and the matter in controversy exceeds the sum of Five Million Dollars(\$5,000,000.00) exclusive of interest and costs.



unduly burdensome on individual class members, defendants, and the court system. Additionally, because of the disparity of resources available to individual class members, prosecution of separate actions would work a financial hardship on many class members. Finally, a class certification is appropriate because the prosecution of separate actions by individual members of the class would create a risk of adjudications with respect to individual members of the class that would be as practical matter be dispositive of the interests of the other members not parties to the adjudications, and would substantially impair their ability to protect their interests.

XVII.

The plaintiffs pray for a trial by jury.

WHEREFORE, the plaintiffs, MP Vista, Inc., Habib Petroleum, Warren's Shell, Inc. Individually And On Behalf Of Those Similarly Situated, pray for Judgment against the defendants, Motiva Enterprises, LLC and Shell Oil Company, together with costs and attorney fees.

Respectfully submitted,



**JONATHAN B. O'NEILL, ESQ. Bar I.D. 4442**  
**MORTON R. KIMMEL, ESQ. Bar I.D. 132**  
**MICHAEL D. BEDNASH, ESQ. Bar I.D. 2948**  
Kimmel, Carter, Roman & Peltz, P.A.  
200 Biddle Avenue, Suite 101  
Spingside Plaza  
Newark, Delaware 19702  
(302) 392-5277  
Attorneys for Plaintiffs